

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

THOMAS GOLDEN,

Plaintiff,

v.

Civ. No. 19-1206 JCH/GJF

CURRY COUNTY DETENTION  
CENTER,

Defendant.

**ORDER TO CURE DEFICIENCY**

THIS MATTER is before the Court upon the three-page, handwritten letter [ECF 1] that was filed, pro se, by Plaintiff while incarcerated. The Court determines that this filing is deficient, as it is neither in proper form nor signed under penalty of perjury. Furthermore, Plaintiff has not paid the required \$400 filing fee or, in the alternative, filed an Application to Proceed in the District Court Without Prepaying Fees and Costs.

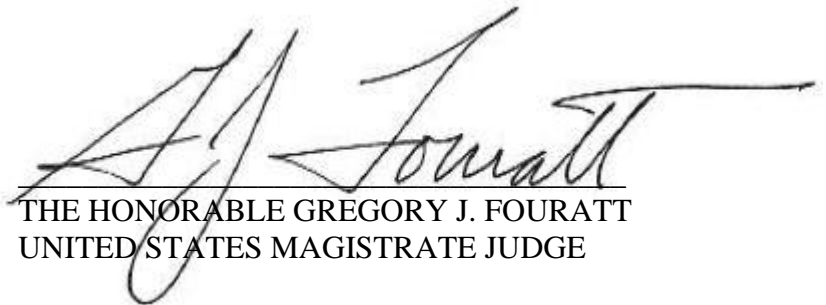
Plaintiff's letter, which alleges to be "based on the 'Inmate Rights Act' and [to] have around 5 to 6 different complaints," appears to assert a prison conditions civil rights claims under 42 U.S.C. § 1983. ECF 1 at 1. Such a filing, however, is not in proper form to assert such § 1983 claims. And a civil rights complaint under 42 U.S.C. § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. *See Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (stating that such claims against state actors must be brought under 42 U.S.C. § 1983). Furthermore, Plaintiff's letter states that it was sworn under oath, but it contains no evidence that he signed it under oath, and it is not signed under penalty of perjury as required by Fed. R. Civ. P. 11(a).

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the \$400 filing fee from the Plaintiff or authorize him to proceed without prepayment of the fee. Plaintiff, however, has neither paid the fee nor submitted an application to proceed under § 1915.

**IT IS THEREFORE ORDERED** that, no later than January 27, 2020, Plaintiff cure the deficiencies by (1) paying the \$400 filing fee, or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs, and (2) filing a prisoner civil rights complaint in proper form. Otherwise, the Court may dismiss this proceeding without further notice. Plaintiff must also include the civil action number, Civ. No. 19-1206 JCH/GJF, on all papers he files in this proceeding.

**IT IS FURTHER ORDERED** that the Clerk of the Court is directed to mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.

**SO ORDERED.**



THE HONORABLE GREGORY J. FOURATT  
UNITED STATES MAGISTRATE JUDGE